Crl. Misc. No.37415-M of 2006 (O&M)

Present: Mr. Padam Jain, Advocate
for the petitioner.

Mr. Amol Rattan Singh, Addl. A.G., Punjab.

This application has been filed for grant of bail in a case registered against the petitioner under section 15 of the ND&PS Act, 1985.

The case of the prosecution, registered on 11.10.2005 on the basis of the statement of Gurmit Singh, SI/SHO, P.S. Lohian, District Kapurthala is that he received a secret information that Nirvair Singh and Jagir Singh were doing the business of poppy husk and they store poppy husk in the fields of Jagir Singh. In his statement, recorded under Section 161 Cr. P.C., he stated that on going to the spot he found that both the accused had run away on seeing him.

Learned counsel for the petitioner submits that the recovery of poppy husk was effected from the fields of Jagir Singh who has not been challaned. Prosecution is practically leading no evidence in the case.

This petition was taken up on 1.9.2006 and learned counsel for the State submitted that four witnesses will be examined on 12.09.2006 and thereafter, evidence will be concluded shortly.

On 13.10.2006, it was stated that all the witnesses were likely to be examined on 16.10.2006.

Learned counsel for the petitioner submits that except Constable Govinder Singh who proved carrying of sample for analysis, no other evidence has been produced so far and the case is now fixed for 7.11.2006.

It is submitted that the petitioner was not apprehended on the spot. The question whether he was in possession of the contraband is a moot point and though the petitioner is in custody for the last eight m-onths, even Gurmit Singh who named the petitioner as the person present on the spot has not been examined.

In view of above, without expressing any opinion on merits, a direction is issued that if the prosecution fails to lead its evidence for reasons not attributable to the petitioner within three months from today, the petitioner will be granted bail by the trial Court subject to such conditions as may be considered appropriate by the trial Court.

The petition is disposed of.

October 27, 2006 (**ADARSH KUMAR GOEL)**
ashwani **JUDGE**